

Assembly Bill No. 1275

Passed the Assembly May 9, 2013

Chief Clerk of the Assembly

Passed the Senate July 8, 2013

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2013, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 1540 of the Code of Civil Procedure, relating to unclaimed property.

LEGISLATIVE COUNSEL'S DIGEST

AB 1275, Chau. Unclaimed property: filing of claims.

Existing law, the Unclaimed Property Law, authorizes the State Controller to administer property that has escheated to the state and sets forth procedures whereby a person may file a claim to the property or to the net proceeds from its sale. Under existing law, the Controller is required to consider each claim within 180 days after it is filed, as specified. Existing law defines an “owner” as the person who had the legal right to the property prior to the escheat, his or her heirs, his or her legal representative, or a public administrator authorized by law.

This bill would clarify that only a person who claims to have been an owner, as defined, may file a claim with the Controller, and requires the Controller, within 180 days after the claim is filed, to determine if the claimant is the owner of the property claimed. The bill would revise the definition of owner to also include the estate representative and guardian or conservator, and remove the legal representative, of the person who had the legal right to the property prior to its escheat.

The people of the State of California do enact as follows:

SECTION 1. Section 1540 of the Code of Civil Procedure is amended to read:

1540. (a) Any person, excluding another state, who claims to have been the owner, as defined in subdivision (d), of property paid or delivered to the Controller under this chapter may file a claim to the property or to the net proceeds from its sale. The claim shall be on a form prescribed by the Controller and shall be verified by the claimant.

(b) The Controller shall consider each claim within 180 days after it is filed to determine if the claimant is the owner, as defined in subdivision (d), and may hold a hearing and receive evidence.

The Controller shall give written notice to the claimant if he or she denies the claim in whole or in part. The notice may be given by mailing it to the address, if any, stated in the claim as the address to which notices are to be sent. If no address is stated in the claim, the notice may be mailed to the address, if any, of the claimant as stated in the claim. A notice of denial need not be given if the claim fails to state either an address to which notices are to be sent or an address of the claimant.

(c) Interest shall not be payable on any claim paid under this chapter.

(d) Notwithstanding subdivision (g) of Section 1501, for purposes of filing a claim pursuant to this section, “owner” means the person who had legal right to the property prior to its escheat, his or her heirs or estate representative, his or her guardian or conservator, or a public administrator acting pursuant to the authority granted in Sections 7660 and 7661 of the Probate Code. Only an owner, as defined in this subdivision, may file a claim with the Controller pursuant to this article.

(e) Following a public hearing, the Controller shall adopt guidelines and forms that shall provide specific instructions to assist owners in filing claims pursuant to this article.

Approved _____, 2013

Governor